

# Mitigation Bank Review Process in Minnesota

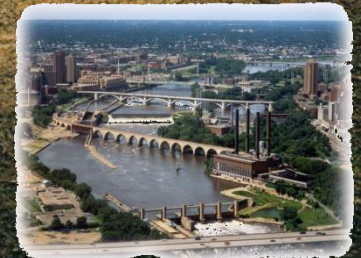
## Phase IV: Final Instrument

Training for Corps of Engineers  
Project Managers

April 20 – April 23 2015



US Army Corps of Engineers  
**BUILDING STRONG®**



# Presentation Outline

---

- Phase IV Purpose & Background
- Getting from Draft to Final MBI
- Getting the MBI Signed



## Compensatory Mitigation Rule Timeline for Bank or ILF Instrument Approval\*

		Event	# of Days**		
Phase I		Optional Preliminary Review of Draft Prospectus	30		DE provides copies of draft prospectus to IRT and will provide comments back to the sponsor within 30 days.
		<b>Sponsor Prepares and Submits Prospectus</b> ~DE must notify sponsor of completeness w/in 30 days of submission~			
Phase II	Day 1**	Complete Prospectus Received by DE			
	Day 30	Public notice must be provided within 30 days of receipt of a complete prospectus	30		
	Day 60	30-Day Public Comment Period	30		
	Day 90	DE must provide the sponsor with an initial evaluation letter within 30 days of the end of the public comment period.	30	15	DE distributes comments to IRT members and sponsor within 15 days of the close of the public comment period.
		<b>Sponsor Considers Comments, Prepares and Submits Draft Instrument</b> ~DE must notify sponsor of completeness w/in 30 days of submission~			
Phase III	Day 1	Complete Draft Instrument Received by IRT Members			
	Day 30	30-day IRT comment period begins 5 days after DE distributes draft instrument to IRT members	30		
	Day 90	DE discusses comments with IRT and seeks to resolve issues ~ # of days variable~	60	90	Within 90 days of the receipt of a complete draft instrument by IRT members, the DE must notify the sponsor of the status of the IRT review.
		<b>Sponsor Prepares Final Instrument</b> ~Sponsor provides copies to DE and all IRT members~			
Phase IV	Day 1	Final Instrument Received by DE & IRT			
	Day 30	DE must notify IRT members of intent to approve/not approve instrument within 30 days of receipt.	30	45	
	Day 45	Remainder of time for initiation of dispute resolution process by IRT members	15		
		<b>INSTRUMENT APPROVED/NOT APPROVED, or DISPUTE RESOLUTION PROCESS INITIATED</b>			

EPA/Corps draft 4/02/08

Total Required Federal Review (Phases II-IV): ≤225 Days

\*Timeline also applies to amendments

\*\*The timeline in this column uses the maximum number of days allowed for each phase.





# Phase IV Purpose & Background

---

- Phase IV (Final MBI) is a Corps only phase without WCA equivalent
- By rule, the final instrument (MBI & Plan) must be provided to the IRT by the Sponsor at the same time it's sent to the Corps
- According to the rule, the final phase of the review process is a yes/no decision by the Corps on whether or not to approve the bank and sign the instrument.
- This phase includes a dispute resolution process for IRT members that disagree with the Corps' final determination on whether or not to approve the bank.



# Phase IV Purpose & Background

---

PM Actions once a Final MBI is received:

1. Confirm final instrument has been provided to the IRT
2. PM reviews final instrument and verifies all issues identified in the status update letter have been satisfactorily addressed
3. PM recommends to District whether to sign or not sign the MBI



# Phase IV Purpose & Background

---

PM Actions once a Final MBI is received:

5. PM notifies IRT of Branch decision on final MBI
6. Fifteen days after notification of intent to approve/disapprove instrument, IRT members objecting to Corps decision must notify the Corps
7. If IRT members object, PM initiates dispute resolution process.  
Otherwise PM routes MBI to BC for signature along with approval letter



# Getting from Draft to Final

- A simple way to get from Draft to Final IV is to have the review prior to the final review
- Benefits?
  - 1) Allows for the instrument to be made before the final review
  - 2) Saves time and money
  - 3) Streamlines the process
  - 4) Takes advantage of the fact that the instrument is submitted to the Sponsor and Sponsor



with Phase  
ment for  
Corps

the final  
ed to be

nsor  
is submitted  
and Sponsor

# Getting the Final MBI Signed

---

- Sponsor must explain in writing how the final instrument addresses the comments provided by the Corps and IRT (in the status update letter)
- The final instrument must contain the information items listed in paragraphs (d)(6)(ii) through (d)(6)(iii)
- Ensure that all information in the MBI (and all appendices) is consistent





# Getting the Final MBI Signed

---

- Submit copies of the Final MBI (with Mitigation Plan & all other Appendices) to both the Corps & all members of the IRT at the same time
- Ensure that the Final MBI & Final Mitigation Plan are consistent



# Questions??

